

# NOTICE

U.S. Department of Transportation  
**Federal Aviation Administration**

N 8120.17

4/13/95

Cancellation

Date: 4/13/96

SUBJ: PROCEDURES FOR PROCESSING APPLICATIONS FOR PARTS  
MANUFACTURER APPROVAL AS A RESULT OF FEDERAL REGISTER  
NOTICE DATED 02/27/95

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1. PURPOSE. This notice provides guidance to Aircraft Certification Service aviation safety inspectors (ASI) and aviation safety engineers (ASE) for processing an application for a Parts Manufacturer Approval (PMA) received after issuance of the Federal Register notice (FRN) dated February 27, 1995.

2. DISTRIBUTION. This notice is being distributed to the branch level of Washington headquarters and all Aircraft Certification Directorates; all Manufacturing Inspection Offices (MIO); all Aircraft Certification Offices (ACO); all Manufacturing Inspection District and Satellite Offices (MIDO and MISO); and all Flight Standards District Offices.

3. BACKGROUND.

a. On July 16, 1992, the Federal Aviation Administration (FAA) issued Advisory Circular (AC) 21-29A, Detecting and Reporting Suspected Unapproved Parts. Initial reports indicated that some suppliers to production approval holder(s) (PAH) have shipped large numbers of parts directly to customers other than the PAH and without direct-ship authority. Although some of these supplier-shipped parts may conform to approved data, none are "approved" parts.

b. The FAA initiated a dialogue with industry on unapproved supplier parts with a kick-off meeting on July 9, 1992. On July 12, 1992, the FAA established the Parts Approval Action Team (PAAT) to address the problem of ensuring regulatory compliance by producers of replacement and modification parts.

c. As a result of the PAAT initiative, the FAA prepared Notice 8110.44, Formation and Charter of the Parts Approval Action Team; Notice 8110.45, Parts Approval Action Team, Phase I: Parts Manufacturer Approval under Evidence of Licensing Agreement; and Notice 8110.51, Parts Approval Action Team, Phase II: Parts Manufacturing Approval by Identity. Notices 8110.44 and 8110.45 were never officially issued through the FAA Directives System.

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Distribution: A-W (IR-3; A-X(CD)-3  
A-FAC-0(ALL); A-FFS-7 (STD)  
AEU-100

Initiated By: AIR-200

d. A review of PMA applications submitted under the Phase I and II initiatives indicates limited industry response. As a result, the FRN was published on February 27, 1995, to put aviation industry on notice that the FAA intends to enforce full compliance with the regulations covering PMA. Specifically, 14 CFR part 21, § 21.303(a) states that, with specified exceptions, no person may produce a replacement or modification part for sale for installation on a type certificated product, unless the part is produced pursuant to a PMA. The FRN contained the following information:

- (1) Each person who produces parts for sale for installation on type certificated products and not pursuant to a production approval are subject to enforcement;
- (2) Preliminary application must include part number and nomenclature, name and address of manufacturer, and the name of the PAH to whom the manufacturer supplies parts;
- (3) Preliminary application must be made no later than May 27, 1995;
- (4) Applications will be processed through the geographic certification directorate that is responsible for the area where the applicant is located;
- (5) Complete applications, in accordance with § 21.303(c), must be submitted no later than July 27, 1995; and
- (6) Information provided in the application will not be used to initiate FAA enforcement actions, except as provided in the FRN.

e. Notice 8110.51 will expire on May 13, 1995. The FAA is anticipating an increased response from industry. As a result of the FRN, the guidance that was developed for Phase I and Phase II will be revised and issued as Notice 8110.54, Parts Manufacturing Approval by Evidence of Licensing Agreement and Notice 8110.55, Parts Manufacturing Approval by Identity. The FAA is currently reviewing the definition of "standard parts"; the Aircraft Engineering Division, AIR-100, will issue guidance in the near future. In the interim, questions regarding "standard parts" and the need for obtaining a PMA should be referred to AIR-100.

f. In an effort to ensure wide dissemination of the FRN information, the FAA issued a press release to the media and sent copies of the FRN to the various industry groups, such as Aerospace Industries Association and General Aviation Manufacturers Association. On March 9, 1995, FAA headquarters conducted a telephone conference with all affected FAA field offices to discuss the FRN and the policy for handling PMA applications.

#### 4. PROCESSING APPLICATIONS FOR PMA.

a. In order to manage the anticipated workload associated with processing PMA applications, applicants will be categorized into four distinct groups. Based on information provided by the applicant and verification of that information by the FAA, applicants for PMA will be assigned to one of these four groups:

(1) Group A:

(a) An applicant for PMA will be considered a Group A supplier with respect to any part that it is currently producing for a PAH. The applicant must provide evidence sufficient to establish that the parts are produced under the same quality assurance process as those parts that are produced under the production approval; or

(b) If the applicant currently holds a PMA or another FAA-approved production system for at least one part but not for all parts.

(2) Group B: An applicant for PMA will be considered a Group B supplier with respect to any part it is not currently producing under production approval, if it provides evidence sufficient to establish that it has previously produced that part under a production approval.

(3) Group C:

(a) An applicant for PMA will be considered a Group C supplier if it has never produced parts under a production approval.

(b) An applicant for PMA will be considered a Group C supplier if it is applying under the normal PMA process.

(4) Group D: An applicant for PMA will be considered a Group D supplier if the applicant provides evidence upon which the FAA could reasonably conclude that the parts they produce meet the definition of "standard" parts as provided in § 21.303(a)(4).

b. The FRN instructed applicants to send all applications for PMA to one of the four certification directorates. Applications received by each directorate will be distributed to the appropriate Aircraft Certification Office (ACO) or Manufacturing Inspection Office (MIO). Applications received directly by an ACO or MIO will be processed using Phase I, Phase II, normal PMA procedures, or as established by the directorate.

c. Upon receipt of an application for PMA, the receiving office (ACO, MIO, MIDO, or MISO) will prepare an acknowledgment letter to send to the applicant using one of the

examples in appendix 1. If the preliminary application does not contain enough information to make a determination as to which group the applicant belongs, i.e., A, B, C, or D, the letter in appendix 1, figure 1, will be used. In cases where the determination of which group the applicant belongs can be made, the acknowledgment letter in appendix 1, figure 2, will be used. In those cases where an applicant is considered to be a member of Group D, the acknowledgment letter in appendix 1, figure 3, will be used.

d. Applicants will be advised in their acknowledgment letter that all information submitted with an application for PMA is subject to the requirements of § 21.2, Falsification of Applications, Reports, or Records.

e. Applications for PMA will be processed using the current guidance provided in Phase I, Phase II, or normal PMA procedures, along with the following provisions:

(1) Group A: For parts produced prior to obtaining a PMA, the shipping document must specify that the parts are identical to those provided to the PAH; and that the parts are eligible for installation by reference to an Illustrated Parts Catalog, service manual, maintenance manual, etc. The applicant must further include the following statement on the shipping document: "(Manufacturer name) certifies that the parts specified on this shipper, conform to the design data and are safe for installation on eligible type certificated products."

(2) Group B: These producers may have an established quality system which is not currently subject to review by a PAH or the FAA. This system will require verification to ensure compliance with the FAR. The FAA should consider why the applicant no longer supplies a PAH.

(3) Group C: Applicants that have never produced parts for a PAH will normally be subject to a complete facility evaluation. This evaluation will determine that the applicant has established and can maintain a fabrication inspection system (FIS) that ensures that each completed part conforms to approved data and is safe for installation on applicable type certificated products.

**NOTE: The order of priority to be used in processing PMA applications is: Group C has the highest priority, followed by Group B, and then Group A. The final assignment of priority is at the discretion of the managing office, remembering the guiding principle is the safety significance of the part. If an applicant is determined to be a "sole source" for a part that may cause an "Aircraft on the Ground," the processing of those applications would normally receive priority consideration for PMA evaluation and issuance.**

(4) Group D: Pending the issuance of further guidance on "standard parts" by AIR-100, NO FURTHER ACTION WILL BE TAKEN on Group D applicants.

f. If the applicant for PMA is in Group B or C, the local FAA manufacturing office (MIO, MIDO, or MISO) will make a preliminary visit to the applicant's facilities. The ASI will determine to what extent the applicant has established a quality control organization that contains the basic principles of an FIS. The ASI will also determine if the applicant is producing any priority parts as identified in FAA Order 8100.7, Aircraft Certification Systems Evaluation Program.

(1) If the applicant does not have an established quality control organization that contains the basic principles of a FIS or the applicant is producing priority parts, the ASI will verbally inform the applicant that it must stop shipment of those parts until it obtains a PMA or produces under another production approval. The verbal notification will be followed up with a letter from the managing office to the applicant restating that the applicant must stop shipment until it obtains a PMA for those parts; or

(2) If the applicant continues to produce and ship those parts after the notification described in paragraph 5.f.(1), the managing office will initiate a Letter of Investigation (LOI) in accordance with the guidelines established in FAA Order 2150.3A, Compliance and Enforcement Program.

#### 5. WAIVERS TO COMPLETED APPLICATION - DUE DATE OF JULY 27, 1995.

a. Waivers may be issued to applicants who demonstrate that they have made a "good faith" effort to submit PMA data by July 27, 1995, but are unable to complete the application process by the due date. Appendix 2 provides a sample letter that should be used if the need for a waiver arises. The letter should also include guidance to the applicant that will identify additional information it should provide to the FAA that will help to expedite the processing of the PMA application.

b. The final decision on whether or not to issue a waiver letter to an applicant is the sole responsibility of the ACO or MIO/MIDO manager, as applicable.

#### 6. TRACKING SYSTEM FOR APPLICATIONS SUBMITTED FOR PMA SINCE FRN.

a. Each directorate will collect and maintain information from all applications submitted as a result of the FRN covering the period of February 27 through July 27, 1995. An Excel spreadsheet has been developed that will be provided to all field offices on electronic mail, or on a disk through the normal mail channels for offices that do not have CC.Mail (see

appendix 3, figure 1, for a sample spreadsheet). Offices will use this spreadsheet to enter the information identified. Instructions for completing the spreadsheet are provided in appendix 3, figure 2.

**NOTE: Please do not modify any of the data cells and as soon as the information becomes available, ensure that ALL cells on the spreadsheet contain the appropriate entry.**

b. The information will be merged to form a complete picture of all activity nationwide. The spreadsheet will be sent to the Engineering and Manufacturing Branch, AFS-610, at Oklahoma City, OK, every week starting immediately. If using CC.Mail, send the file to Adrienne Walls-Mauch. If sending the file on a disk, the address is: Engineering Manufacturing Branch, AFS-601; P.O. Box 26460; Oklahoma City, OK 73125; ATTN: Adrienne Walls-Mauch.

c. Any applications for PMA that are determined not to be the result of the FRN, but a result of normal business, WILL NOT be recorded in this tracking system.

d. Those PMA applications that were received prior to this notice, but since February 27, 1995, must be reviewed to determine if they are as a result of the FRN, and if so, they should be processed in accordance with this notice. Information from those applications filed as a result of the FRN will be entered into the tracking system.

**NOTE: Nothing in this notice shall relieve any office issuing a PMA from its responsibility to report the information collected for tracking purposes to AFS-610. The information collected on applications received pursuant to the FRN does not take the place of the PMA tracking system currently utilized by AFS-610. The information that is currently being transmitted to Oklahoma City must still be reported in the same manner once an approval is issued.**

## 7. COMPLIANCE POLICY.

a. With exceptions outlined in the FRN, it is stated that any person who applies for a PMA under the provisions of the FRN will not be subject to FAA enforcement based on the information contained in the PMA application.

b. If the FAA is informed through a source other than an application that an applicant may be producing parts in violation of § 21.303(a), the FAA will investigate and take appropriate action to enforce and ensure compliance with the rule. Section 901 of the Federal Aviation Act gives the agency the authority to assess civil penalties upon any

person, whether or not that person holds a certificate, in violation of the safety regulations issued under Title VI of the Act. The text of a detailed memorandum addressing this subject is provided in appendix 4 for reference.

c. Any case or matter that is under current investigation or enforcement will continue and is not affected by the FRN. Since the investigation or enforcement action was initiated on a basis other than the PMA application, appropriate action will continue regardless of the fact that the applicant has applied for PMA under the FRN.

d. If a PMA application is denied, the managing office (ACO or MIO/MIDO) will initiate an LOI to the applicant that explains that it cannot produce any parts for sale for installation on a type certificated product except in accordance with § FAR 21.303.

8. DEVELOPMENT AND CLARIFICATION. This notice was developed through a team effort consisting of representatives of the Production and Airworthiness Certification Division, AIR-200, the Aircraft Engineering Division, AIR-100, and various field office representatives. Comments regarding any suggested changes or modifications to the procedures listed within this document should be made to AIR-100 or AIR-200, as appropriate.

Ava L. Robinson  
Acting Manager, Production & Airworthiness  
Certification Division



APPENDIX 1, SAMPLE ACKNOWLEDGMENT LETTERFIGURE 1. SAMPLE LETTER IF THE PRELIMINARY APPLICATION DOES  
NOT CONTAIN ENOUGH INFORMATION TO MAKE A GROUP DETERMINATION

PMA Applicant  
Any Street  
Anyplace, USA 00000

Dear Mr. Smith:

The Federal Aviation Administration (FAA) has received your application for a Parts Manufacturer Approval (PMA) under Federal Aviation Regulations (FAR) § 21.303(a). In order to assist us with processing your application, we ask you to identify which of the following defines your current status in respect to your experience producing parts for use on FAA type certificated products:

1. Group A Supplier:

a. Currently produces part(s) for a production approval holder (PAH) and the parts are subjected to the same quality assurance process of those parts that are shipped to the PAH; or

b. Currently holds a PMA or another FAA-approved production system for at least one part, but not for all parts it produced and shipped to end users.

2. Group B Supplier: Not currently producing parts for a PAH but has previously produced parts for a PAH without a PMA.

3. Group C Supplier: Never produced parts for a PAH but is currently or has produced parts for aviation end users.

If applicable, please provide us with the name of the PAH that you supply or have supplied; In addition, please provide a description of the product you supply or have supplied; and the identity of the FAA type certificated product for which the part is or was provided. In addition, you must submit the following information in accordance with the requirements of FAR § 21.303(c) no later than July 27, 1995:

**(MANAGING OFFICE LIST REQUIRED INFORMATION HERE)**

APPENDIX 1. SAMPLE ACKNOWLEDGMENT LETTERFIGURE 1. SAMPLE LETTER IF THE PRELIMINARY APPLICATION DOES  
NOT CONTAIN ENOUGH INFORMATION TO MAKE A GROUP DETERMINATION (Continued)

Please remember that this information is subject to the requirements of FAR § 21.2, Falsification of Applications, Reports, or Records. We also ask that you tell us in your response if you consider the information in your PMA application proprietary data and the reasons why the data is proprietary.

We need your response as soon as possible to expedite the processing of your request for PMA. Should you have any questions regarding this letter or your PMA application, please call Fran ASI at (999)555-1212.

Manager, Any Certification  
Service Office (ACO/MIDO)

APPENDIX 1. SAMPLE ACKNOWLEDGMENT LETTERFIGURE 2. SAMPLE LETTER IF THE PRELIMINARY APPLICATION  
CONTAINS ENOUGH INFORMATION TO MAKE A GROUP DETERMINATION

PMA Applicant  
Any Street  
Anyplace, USA 00000

Dear Mr. Smith:

The Federal Aviation Administration has received your application for a Parts Manufacturer Approval (PMA) under Federal Aviation Regulations (FAR) § 21.303(a). In order to assist us with processing your application, you will have to submit the following information in accordance with the requirements of FAR § 21.303(c) no later than July 27, 1995. Please provide the following information:

**(MANAGING OFFICE LIST REQUIRED INFORMATION HERE)**

Please remember that this information is subject to the requirements of FAR § 21.2, Falsification of Applications, Reports, or Records. We also ask that you tell us in your response if you consider the information in your PMA application proprietary data and the reasons why the data is proprietary.

We need your response as soon as possible in order to expedite the processing of your request for PMA. Should you have any questions regarding this letter or your PMA application, please call Joseph ASI at (999)555-1212.

Manager, Any Certification  
Service Office (ACO/MIDO)

APPENDIX 1. SAMPLE ACKNOWLEDGMENT LETTER

FIGURE 3. SAMPLE LETTER IF THE PRELIMINARY APPLICATION INDICATES THE APPLICANT MIGHT BE A MEMBER OF GROUP D

PMA Applicant  
Any Street  
Anyplace, USA 00000

Dear Ms. Cox:

The Federal Aviation Administration (FAA) has received your application for a Parts Manufacturer Approval (PMA) under Federal Aviation Regulations (FAR) § 21.303(a). Preliminary review of the information supplied in your application indicates the parts you are producing may be eligible for consideration as "standard" parts under FAR § 21.202(a)(4). The FAA is currently reviewing the definition of "standard" parts and detailed guidance is forthcoming. Pending the issuance of this guidance, no further action will be taken on your application.

The Federal Register notice (FRN) stated that a complete PMA application must be submitted by July 27, 1995. This letter is a waiver from the FRN July 27 deadline. We will contact you as soon as a final determination can be made on your PMA application based on any new guidance.

If you have any questions regarding this letter please call Joseph ASI at (999)555-1212.

Manager, Any Certification  
Service Office (ACO/MIDO)

APPENDIX 2. SAMPLE WAIVER LETTER FOR PMA APPLICANTS UNABLE TO SUBMIT COMPLETE  
APPLICATION BY JULY 27, 1995

PMA Applicant  
Any Street  
Anyplace, USA 00000

Dear Mr. Smith:

We have not received your complete Parts Manufacturer Approval (PMA) application as described in Federal Aviation Regulations (FAR) § 21.303(c). The Federal Register notice (FRN) published on February 27, 1995, emphasized the need for regulatory compliance to FAR § 21.303. The FRN stated that a complete PMA application must be submitted by July 27, 1995. This letter is a waiver from the FRN July 27 deadline. Your cooperation since preliminary application has been appreciated. In order to complete your application for PMA, please provide the following information:

**(MANAGING OFFICE LIST REQUIRED INFORMATION HERE)**

Please remember that this information is subject to the requirements of FAR § 21.2, Falsification of Applications, Reports, or Records. This information is needed no later than *(define a reasonable date for receipt of data requested)*. If we do not hear from you within the specified time frame, your application will be deemed incomplete, and you may be subject to enforcement as described in the FRN.

Thank you for your prompt attention to this matter. If you have any questions regarding this letter or your PMA application, please call Joseph ASI at (999)555-1212.

Manager, Any Aircraft  
Certification Office (ACO/MIDO)

APPENDIX 3. INSTRUCTIONS FOR COMPLETING EXCEL SPREADSHEET; SAMPLE EXCEL  
SPREADSHEET; AND LISTING OF CODES TO IDENTIFY ISSUING OFFICE

FIGURE 1. SAMPLE SPREADSHEET

*NEED HARD COPY OF EXCEL SPREADSHEET !!*

APPENDIX 3. INSTRUCTIONS FOR COMPLETING EXCEL SPREADSHEET; SAMPLE EXCEL SPREADSHEET; AND LISTING OF CODES TO IDENTIFY ISSUING OFFICE

FIGURE 2. INSTRUCTIONS FOR COMPLETING SPREADSHEET

1. Column 1. PMA Applicant Holder: Enter the name of the person applying for a PMA pursuant to the FRN.
2. Columns 2, 3, 4, & 5. Address: Enter the primary street address or PO Box number of PMA applicant, city, state (two letter abbreviation in caps), and zip code.
3. Column 6. Enter Part Nomenclature: The name of the part for which PMA application is made.
4. Column 7. Issuing Office: Enter the code of the MIO, MIDO, or MISO that will issue the PMA. Refer to figure 3 for listing of codes.
5. Column 8. Date Received: Enter the date the application was postmarked or in the case of some other delivery method, enter the date the application was actually received.
6. Column 9. Date Closed: Enter the date the final disposition is made on the PMA application.
7. Column 10. GROUP (A, B, C, or D): Enter the group that the PMA applicant falls into, as defined by this notice.
8. Column 11. Status: Enter the current status of the application and update it as the status changes.
9. Column 12. Number of Parts On Application: Enter the number of parts for which PMA application has been made.
10. Column 13. Number of Parts Approved: Enter the number of parts for which PMA has been granted. This may increase over time and would need to be updated, i.e., all parts may not be approved at the same time.
11. Column 14. FAA Design Approval Means: Enter whether the PMA application is based on Identity, Licensing Agreement, or Test and Computation.

APPENDIX 3. INSTRUCTIONS FOR COMPLETING EXCEL SPREADSHEET; SAMPLE EXCEL SPREADSHEET; AND LISTING OF CODES TO IDENTIFY ISSUING OFFICE

FIGURE 3. LIST OF CODES FOR DIRECTORATES, AIRCRAFT CERTIFICATION OFFICES (ACO), MANUFACTURING INSPECTION OFFICES (MIO), MANUFACTURING INSPECTION DISTRICT OFFICES (MIDO), MANUFACTURING INSPECTION SATELLITE OFFICES (MISO)

OFFICE	CODE
<b>Small Airplane Directorate</b>	<b>ACE-100</b>
Manufacturing Inspection Office	<b>ACE-180</b>
Anchorage ACO	<b>ACE-115N</b>
Atlanta ACO	<b>ACE-115A</b>

Chicago ACO	<b>ACE-115C</b>
Wichita ACO	<b>ACE-115W</b>
Atlanta MIDO	<b>ATL</b>
Chicago MISO	<b>CHI</b>
Cleveland MIDO	<b>CLE</b>
Detroit MISO	<b>DET</b>
Lakeland MISO	<b>LAK</b>
Kansas City MIDO	<b>MKC</b>
Miami MIDO	<b>MIA</b>
Minneapolis MIDO	<b>MNN</b>
Mobile MISO	<b>MOB</b>
Nashville MISO	<b>NAS</b>
Savannah MISO	<b>SAV</b>
Vandalia MISO	<b>VAN</b>
Wichita MIDO	<b>ICT</b>
<b>Engine and Propeller Directorate</b>	<b>ANE-100</b>
Engine Certification Office	<b>ANE-140</b>
Boston ACO	<b>ANE-150</b>
New York ACO	<b>ANE-170</b>
Manufacturing Inspection Office	<b>ANE-180</b>
Boston MISO	<b>BOS</b>
Farmingdale MIDO	<b>FAR</b>
New Cumberland MIDO	<b>NEW</b>
Windsor Locks MIDO	<b>WIN</b>
Teterboro MIDO	<b>TEB</b>



APPENDIX 3. INSTRUCTIONS FOR COMPLETING EXCEL SPREADSHEET; SAMPLE EXCEL  
SPREADSHEET; AND LISTING OF CODES TO IDENTIFY ISSUING OFFICE

FIGURE 3. LIST OF CODES FOR DIRECTORATES, AIRCRAFT CERTIFICATION OFFICES (ACO),  
MANUFACTURING INSPECTION OFFICES (MIO), MANUFACTURING INSPECTION DISTRICT OFFICES  
(MIDO), MANUFACTURING INSPECTION SATELLITE OFFICES (MISO)

(Continued)

OFFICE	CODE
<b>Transport Airplane Directorate</b>	<b>ANM-100</b>
Manufacturing Inspection Office	<b>ANM-108</b>
Denver ACO	<b>ANM-100D</b>
Seattle ACO	<b>ANM-100S</b>
Los Angeles ACO	<b>ANM-100L</b>
Auburn MISO	<b>AUB</b>
Everett MISO	<b>EVE</b>
Los Angeles MIDO	<b>LAX</b>
McDonnell Douglas MISO	<b>MCD</b>
Phoenix MISO	<b>PHO</b>
Renton MISO	<b>REN</b>
Seattle MIDO	<b>SEA</b>
<b>Rotorcraft Directorate</b>	<b>ASW100</b>
Airplane Certification Office	<b>ASW-150</b>
Rotorcraft Certification Office	<b>ASW-170</b>
Manufacturing Inspection Office	<b>ASW-180</b>
San Antonio MIDO	<b>SAT</b>
Wiley Post MIDO	<b>OKC</b>

APPENDIX 4. TEXT OF MARCH 30, 1994, MEMORANDUM "INFORMATION: ENFORCEMENT OF FAR § 21.303."

This memorandum was signed by the Director, Aircraft Certification Service, and sent to all ASIs and ASEs, with courtesy copies to the Director, Flight Standards Service, Deputy Director, Flight Standards Service, and all Flight Standards District Offices. The following is the complete text of the memorandum:

A case has arisen recently in a Directorate where a supplier to a production approval holder (PAH) has introduced production overrun aircraft parts into the aviation stream of commerce for installation on type certificated products. The supplier did not have direct ship authority and did not hold any Federal Aviation Administration (FAA) production approval. The question has been asked as to whether or not the FAA can take enforcement action against a company that does not hold an FAA approval or certificate for a violation of Federal Aviation Regulations (FAR) § 21.303(a).

Federal Aviation Regulations § 21.303(a) states that, with specified exceptions, no person may produce a replacement or modification part for sale for installation on a type certificated (TC) product, unless the part is produced pursuant to a parts manufacturer approval (PMA). Federal Aviation Regulations § 21.303(a) is a safety regulation issued under the FAA's authority in Title VI of the Federal Aviation Act (Act). Section 901 of the Act gives the agency the authority to assess civil penalties upon any person in violation of the safety regulations issued under Title VI of the Act, whether or not that person holds a certificate.

The language of FAR § 21.303(a) in no way limits the prohibition to a certificate holder; it applies to a "person." A person is defined in FAR § 1.1, as an individual, firm, corporation, company, association, joint-stock association, governmental entity and a trustee, receiver, assignee, or other similar representative of any of them.

The FAA is concerned with the airworthiness and suitability of aircraft parts not produced pursuant to a PMA or other FAA approval because the parts have not undergone the scrutiny of an FAA design approval process nor have they been produced in accordance with an FAA approved production system. One enforcement action is a civil penalty for violation of 21.303(a) against a person who produces a part without FAA approval.

The FAA can, without certificate inspection authority, investigate a person who does not hold an approval. While an FAA inspector or engineer does not have the same regulatory authority to inspect a facility or paperwork as with certificate holders, there are other

APPENDIX 4. TEXT OF MARCH 30, 1994, MEMORANDUM"INFORMATION: ENFORCEMENT OF FAR § 21.303,"

(Continued)

means of obtaining evidence. The Assistant Chief Counsel for a region may issue an administrative subpoena in accordance with paragraph 706 of FAA Order 2150.3A, Compliance and Enforcement Program. Furthermore, much of the evidence necessary to an investigation of a possible violation is not solely within the control of the producer.

The criteria for determining if FAR § 21.303 has been violated was announced in a recent decision by the FAA Acting Administrator in an enforcement action against Pacific Sky Supply, Inc., FAA Order No. 93-19. The ruling was that producers of aircraft parts should not be permitted to avoid responsibility when producing unapproved parts they know or should know are substantially certain to be installed on type certificated products. One of the facts of this case that is key to this situation is that it was an enforcement action against a non-certificate holder. The Acting Administrator's decision recognizes a valid enforcement action against non-certificate holders. The FAA must show that the producer knew or should have known that it was substantially certain that the parts produced without a PMA would be installed on TC products.

Any person who produces modification or replacement parts for sale for installation on a type certificated product, but does not do so pursuant to FAR §§ 21.303 and 21.305, is in violation of the rule. The FAA will investigate each instance of production of modification or replacement parts occurring without benefit of a production approval. If an employee has reason to believe that a violation of FAR § 21.303(a) has occurred, an Enforcement Investigative Report should be initiated in accordance with FAA Order 2150.3A. In addition, notification in accordance with FAA Order 8120.10, Suspected Unapproved Parts (SUP) Program, should be made.

As described above, an enforcement action against a person who does not hold a certificate will usually be for the assessment of a civil penalty. However, in some cases, the FAA may also seek an injunction to prevent the offending person from producing in violation of the FAR.

As referenced in Order 8120.10, SUP notifications involving non-certificated entities will be investigated by the service that would normally have jurisdiction of the facility if it were certificated. Aircraft Certification will assume responsibility for all cases involving new parts and Flight Standards will investigate issues related to repaired and overhauled parts.

APPENDIX 4. TEXT OF MARCH 30, 1994, MEMORANDUM  
"INFORMATION: ENFORCEMENT OF FAR § 21.303."  
(Continued)

Also, if during the course of the safety investigation a suspicion of criminal activity is evident, the person investigating the case should immediately provide the appropriate Civil Aviation Security Division with the information.

A determination should be made in all cases as to whether or not the supplier is acting under the authority of a PAH. If the supplier is acting under the authority of a PAH, the PAH is usually the party held responsible for any violations of FAR § 21.303. If a supplier direct ships parts that were produced for sale for installation for a PAH without the PAH's authority, the supplier may be in violation of the FAR § 21.303, and any enforcement action would be against the supplier.

If you have further questions about the enforcement of FAR § 21.303(a), contact your Assistant Chief Counsel. Office of the Chief Counsel concurs with the contents of this memorandum.

/s/

Thomas E. McSweeney  
Director, Aircraft  
Certification Service